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WILLKIE FARR & GALLAGHER

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November 7, 1994

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Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Notification of Permitted Ex Parte Presentation in  
ET Docket No. 93-7

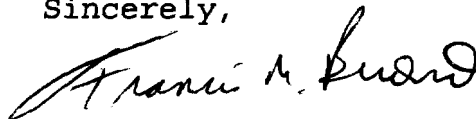
Dear Mr. Caton:

General Instrument Corporation, by its attorneys, hereby submits an original and one copy of the attached ex parte letter that was delivered today to the following Commission staff in connection with the above-captioned proceeding:

Bruce A. Franca, Deputy Chief Engineer, OET  
Jill Lockett, Special Advisor to Commissioner Chong  
Mary P. McManus, Legal Advisor to Commissioner Ness  
Maureen O'Connell, Legal Advisor to Commissioner Quello  
Lisa B. Smith, Legal Advisor to Commissioner Barrett  
Richard M. Smith, Chief, OET  
Merrill Spiegel, Special Assistant to Chairman Hundt  
Alan Stillwell, Economic Advisor, OET

Kindly direct any questions regarding this matter to the undersigned.

Sincerely,



Francis M. Buono

cc: Bruce A. Franca  
Jill Lockett  
Mary P. McManus  
Maureen O'Connell  
Lisa B. Smith  
Richard M. Smith  
Merrill Spiegel  
Alan Stillwell

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# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
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Paris

November 7, 1994

Merrill Spiegel  
Special Assistant to Chairman Reed E. Hundt  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554

Re: ET Docket No. 93-7 -- Equipment Compatibility

Dear Ms. Spiegel:

This letter responds to one issue raised in the ex parte letter addressed to you and filed in the above-captioned proceeding on October 12, 1994 by the Consumer Electronics Group of the Electronics Industries Association ("EIA/CEG").

Contrary to EIA/CEG's proposal, General Instrument Corp. ("GIC") respectfully suggests that the Commission should not restrict cable operators from altering the infrared ("IR") codes used in existing customer equipment.

The ban is unnecessary, because existing Commission rules and marketplace realities already foreclose the putative anticompetitive behavior cited as justification for the ban:

- Existing FCC rules prohibit cable operators from disabling the remote control capability of their converters, and require consumer education about compatible third-party remotes;
- Existing FCC rules limit operator recovery for remote leases to "actual cost;" operators will not undertake the substantial expense and technical difficulty of changing IR codes merely to obtain such a modest return; and
- Most subscriber-owned remotes are competitively-supplied, inexpensive, "universal" remotes that operate compatibly with most, if not all, cable converters.

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Not only is the ban unnecessary, it will impose significant costs and technical difficulties on cable operators, converter manufacturers, and consumers. To comply with the rule, a "new" converter would need to be compatible with all current and prior units of current manufacturers, as well as all units of defunct manufacturers. This would require that "new" converters either contain IR receivers compatible with specific existing converters, thereby creating a nightmarish inventory problem in the form of the proliferation of niche products, or compatible with all pre-existing IR codes and transmission techniques, thereby substantially increasing complexity. Either approach creates more costs for manufacturers and operators, and ultimately for consumers in the form of higher equipment lease rates. These costs are significantly higher than the costs of upgrading individual subscriber-owned remotes to be compatible with both the old and new IR features.

In addition, the ban will thwart competition in the supply of converters to cable systems. The additional costs, burdens, and technical difficulties which cable operators would face in complying with this ban will inhibit operators from purchasing new brands of converter equipment, thereby reducing the competitive ability of new suppliers.

The ban will also stifle the development of advanced IR codes and the emergence of related technologies and services that would otherwise increase efficiencies and subscriber options. For example, converter suppliers contemplating alternative techniques for improving remote control communications (e.g., using radio waves in place of IR codes) may abandon such projects for fear they would not be implemented by operators due to the IR alteration ban. In addition, the ban could inhibit the deployment of new, NII-related services which will require more sophisticated remote control code schemes.

Nor is there any justification for singling out cable operators as guardians of subscriber-owned remotes when TV/VCR manufacturers and third-party converter suppliers, who are not subject to the ban, may continue to provide non-backwardly compatible, IR-controlled customer equipment.

Finally, EIA/CEG's suggested revision of the ban -- which would prohibit cable operators from using new IR codes for the remote control functions included in existing customer

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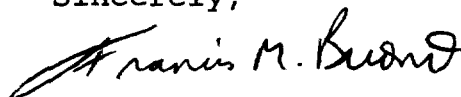
equipment if such IR codes were not in use as of May 4, 1994 -- would have the same costly, anti-competition, anti-innovation, and discriminatory effects as the current rule, and, therefore, should also be rejected by the Commission.

In the past, when confronted with allegations of theoretical risk unaccompanied by evidence, the Commission has wisely taken a "wait and see" approach and announced that it will "monitor developments" and "take appropriate action in the future, if necessary." Indeed, these are the very words the Commission used in this proceeding to allay the concerns of those who feel that cable ready TVs should be required to tune beyond 806 MHz. GIC respectfully submits that the same circumspect approach should be adopted here, as well.

In this regard, GIC recommends that a preferable alternative to current rule 47 C.F.R. § 76.630(c) and to EIA/CEG's proposed modification is for the Commission to require all equipment manufacturers to disclose their IR codes to third-party manufacturers. Such a disclosure requirement would serve as an additional disincentive for cable operators and others to alter IR codes for improper purposes by assuring the competitive supply of third-party remotes that are compatible with the new IR codes. It would also avoid the problems created by the current rule and by EIA/CEG's proposed modification. GIC has, and will continue to make its IR code library available to third-party manufacturers without royalty. Such data is also furnished on a regular basis to the EIA/CEG to facilitate distribution to its members.

We hope the foregoing is helpful. Please let us know if you have any questions.

Sincerely,



Francis M. Buono

cc: William F. Caton  
Bruce A. Franca  
Jill Lockett  
Mary P. McManus  
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